

Federal regulations affecting state and local governments

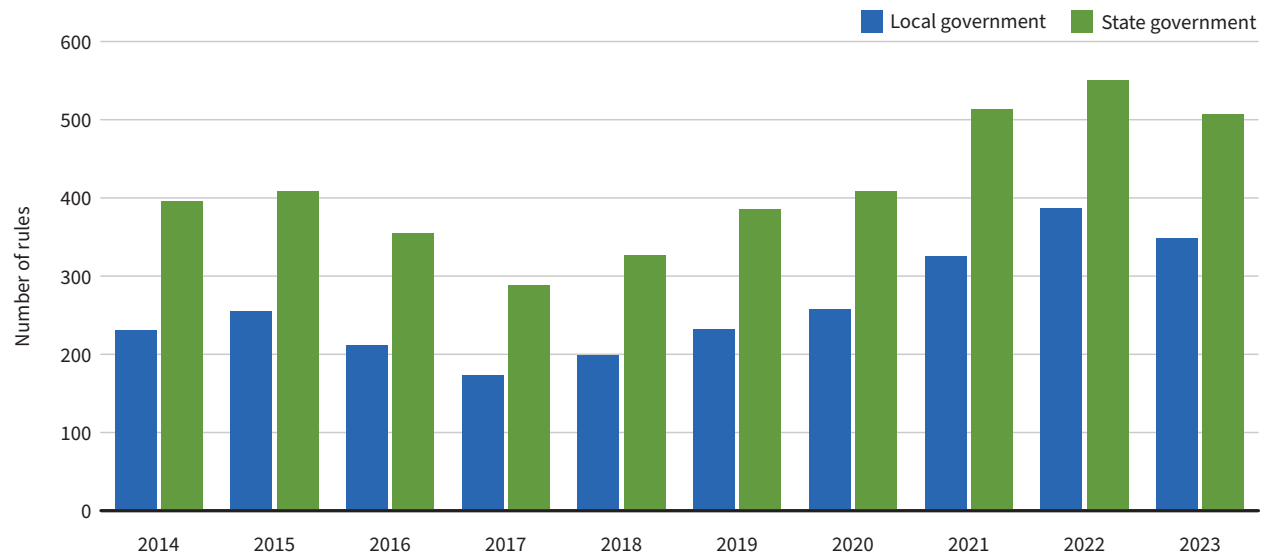
State and local officials' concerns over federal mandates' overriding their own priorities and prerogatives resulted in the Unfunded Mandates Reform Act of 1995, the requirements of which included Congressional Budget Office cost estimates for mandates affecting state, local, and tribal governments above the then-threshold of \$50 million. Post-COVID-19 spending and regulation affecting states and localities may lead to a new alignment for streamlining, but as yet localities primarily pursue more federal money to expand functions like housing, education, and infrastructure.¹¹⁰

As Figure 24 shows, agencies report that 349 of the 3,599 rules in the fall 2023 Unified Agenda pipeline (active, completed, and long-term) affect local governments and 507 affect state governments.¹¹¹ Although a decline from 2022, Figure 24 shows that **rules affecting state and local governments mark substantial increases over 5 and 10 years ago.**

Of the 2,524 active rules in the fall 2023 Unified Agenda, only 8 of them (5 from the Department of Health and Human Services and 2 from the Environmental Protection Agency) are acknowledged to inflict unfunded mandates on state, local, or tribal governments, whereas only one long-term action is so reckoned (the Department of Labor's "COVID-19 Vaccination and Testing Emergency Temporary Standard").

So long as money flows unimpeded from Washington, lower-level governments may remain content and eagerly seek directives. However, it is the case that Section 3(f)(1) (S3F1) rules affect state and local governments, too, and federal rulemaking will affect the flexibility for local decision-making as such strictures have done before, whether or not they are unfunded. Nine S3F1 rules have been completed since the spring Unified Agenda; across all lower-level governments, 60 S3F1 rules are in the active phase, with 10 planned for the longer term.

Figure 24. Rules affecting state and local governments



Source: Compiled by the author from “The Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,” *Federal Register*, various years’ editions, and from online edition at <http://www.reginfo.gov>.